

No. 03-21-00053-CV

In the Court of Appeals for the
Third District of Texas at Austin

FILED IN
3rd COURT OF APPEALS
AUSTIN, TEXAS
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JEFFREY D. KYLE
Clerk

Mary Louise Serafine, *Appellant*

v.

Karin Crump, in her individual capacity, and Lora J. Livingston, in her official capacity, as Presiding Judges of the 200th Civil District Court of Travis County, Texas; Melissa Goodwin, in her individual and official capacities as Justice of the Third Court of Appeals at Austin, Texas; David Puryear and Bob Pemberton, in their personal and individual capacities, including as former justices of the Third Court of Appeals at Austin, Texas; and Thomas Baker and Gisela Triana, in their official capacities as Justices of the Third Court of Appeals at Austin,
Appellees

**From the 345th Judicial District Court of Travis County, Texas,
Hon. Todd A. Blomerth, presiding,
Cause No. D-1-GN-19-002601**

APPELLANT’S ADVISORY TO THE COURT¹

Counsel for Plaintiff have just noticed that, a few days ago—on August 25, 2021, the same day that the last Appellee filed her Appellee’s Brief—the Court made the notation “Case ready to be set” on the docket posted on line for the case. We are unsure whether the notation conveys that the case may imminently be

¹ The caption of this case includes Judge Livingston and Justices Baker and Triana, accurately reflecting the operation of automatic successor substitution rules in the case since 2019—Fed. R. Civ. P. 25(d) and Fed. R. App. P. 43(a), and the operation in this appeal of Tex. R. App. P. 7.2. See Tabs 4, 5, 6, Appellant’s Brief.

submitted for decision, and whether, if so, it could be submitted before Appellant's Reply briefs are filed. Thus, we wish to advise the Court that, under Rule 38.3, we intend to file a Reply brief on behalf of Appellant by September 9, 2021, as a reply to the Justices' Appellee Brief filed on August 20, 2021. We also intend to file a Reply brief by September 14, 2021, as a reply to Judge Crump's Appellee Brief filed on August 25, 2021.

We recognize that the Court may decide a case without waiting for Replies. But we believe this would be manifestly unfair under these circumstances. First, Appellees' opening argument is that the Court lacks jurisdiction to decide the appeal. Among other arguments, Appellant will urge that Appellees own unclean hands engineered this factor as part of their nearly-four-year program to evade a merits decision in the case at hand. Second, depriving Appellant of the chance to reply creates the appearance of bias in a setting where other circumstances have already created the same appearance. Third, the Justices' Appellees' Brief contains false and misleading statements that require correction. Finally, all parties request oral argument, indicating a consensus that the case is not unimportant or simple.

Therefore, we respectfully advise that Appellant intends to file the above-described reply briefs. We trust the Court will inform us if it wishes us to comply with any other matter, so that we can do so immediately.

Respectfully submitted,

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CERTIFICATE OF SERVICE

My signature below certifies that on the 30th day of August, 2021, I served the foregoing document on the parties listed below through the Court's electronic filing system.

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